

## REMARKS

Herein, the "Action" or "Office Action" refers to the Office Action dated 11/8/2004.

Applicant respectfully requests reconsideration and allowance of all of the claims of the application. Claims 25-27, 29-36, 66, and 68 are presently pending. Claims amended herein are 25, 29, 34, 66 and 68. Claims withdrawn or cancelled herein are 28 and 67. New claims added herein are none.

### Allowable Claims

Applicant appreciates the Office's recognition of the allowability of claims 28, 29, 67, and 68 if re-written into independent forms. Applicant does that herein. However, Applicant incorporates the dependencies of claim 28 into its base claim 25 and the dependencies of claim 67 into its base claim 66.

To speed along issuance of claims in this case, Applicant cancels claims 28 and 67 which leaves primarily the claims pending which are the ones that the Office indicates would be allowable.

### Formal Claim Rejections

The Office rejects independent claims 25 and 66 under 35 USC § 112, 2<sup>nd</sup> ¶, as being indefinite "for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention."

In particular, the Office indicates that the recitation of the term "approximately" in these claims is not defined in the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary

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Serial No.: 09/843,279  
 Atty Docket No.: MS1-792US  
 RESPONSE TO OFFICE ACTION DATED 11/8/2004

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 atty: Kasey C. Christie

1 skill in the art would not be reasonably apprised of the scope of the invention.  
 2 Accordingly, Applicant amends these claims remove this term ("approximately").

### 3 **Substantive Claim Rejections**

4 The Office rejects claim 34 under 35 USC § 101 because, it asserts, the  
 5 invention is directed at non-statutory subject matter. Applicant amends this claim  
 6 to include language that indicates that the generated signal is embodied on one or  
 7 more computer-readable media. Furthermore, Applicant notes that the generated  
 8 signal is a resulting "product" of the "process" specified in its base claim (claim  
 9 25). Thus, claim 34 is product-by-process claim. Accordingly, Applicant submits  
 10 that this claim is statutory.

11 The substantive rejections (under §§ 102 and 103) of the original forms of  
 12 claims 25-27, 30-36, and 66 are moot since these claims have been withdrawn  
 13 from consideration or have been amended to incorporate elements and features  
 14 that the Office indicates are allowable.

15 In their original form, these claims are withdrawn from consideration.  
 16 Applicant does this in order speed along issuance of the pending claims that the  
 17 Office indicates are allowable or would be allowable if re-written into independent  
 18 form. Applicant reserves the right to reintroduce these claims at a later date.  
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1 **Conclusion**

2 All pending claims are in condition for allowance. Applicant respectfully  
3 requests reconsideration and prompt issuance of the application. If any issues  
4 remain that prevent issuance of this application, the Office is urged to contact the  
5 undersigned attorney before issuing a subsequent Action.

7 Respectfully Submitted,

8  
9 Dated: 1-7-05

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9

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